

EXHIBIT 5

Rothstein, James K.

From: Leigh, Daniel
Sent: Friday, February 19, 2021 9:55 AM
To: floragunn-service@kblfirm.com
Cc: #Elasticsearch-Floragunn
Subject: Hendrik Saly Deposition Notice
Attachments: 2021.02.19 Hendrik Saly Deposition Notice.pdf

Counsel:

Attached, please find a notice for Hendrik Saly's deposition on March 4, 2021 at 8:00am PT. Due to your ongoing refusal to provide a date for Mr. Saly's deposition despite our ongoing requests beginning in November 2020 for such a date, we have chosen March 4, 2021. We remain available to meet and confer about scheduling for Mr. Saly's deposition.

Best,
Daniel

O'Melveny

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ELASTICSEARCH, INC. and
ELASTICSEARCH B.V.
9

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 ELASTICSEARCH, INC., a Delaware
14 corporation, and ELASTICSEARCH B.V., a
Dutch corporation,

15 Plaintiffs,

16 v.

17 FLORAGUNN GmbH, a German corporation,

18 Defendant.
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Case No. 4:19-cv-05553-YGR

**PLAINTIFFS ELASTICSEARCH, INC.
AND ELASTICSEARCH B.V.'S
NOTICE OF DEPOSITION OF
HENDRIK SALY**

Date: March 4, 2021
Time: 8:00 a.m. Pacific Time
Location: Videoconference

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN that, pursuant to Federal Rule of Civil Procedure 30 and other applicable rules, Plaintiffs will take the deposition upon oral examination of Defendant's Chief Technology Officer, Hendrik Saly, on March 4, 2021 at 8:00 a.m. Pacific Time, until completed.

In accordance with California and San Francisco County Orders regarding the COVID-19 State of Disaster (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/limited-stay-at-home-order.aspx>; <https://www.sfdph.org/dph/alerts/files/C19-07-Shelter-in-Place-Health-Order.pdf>), and/or any related orders in place on the deposition date, this deposition will be taken via remote video conference. Prior to the deposition, the deponent and counsel for the parties will be sent invitations containing a hyperlink to participate in the deposition. The deposition will be taken before an officer authorized by the State of California to administer the oath to Plaintiff.

NOTICE IS FURTHER GIVEN, pursuant to Rule 30(b) of the Federal Rules of Civil Procedure, that deposition testimony may be recorded by audiotape and/or videotape, in addition to being recorded by the stenographic method by a court reporter who will participate in the deposition by remote video conference from another location.

NOTICE IS FURTHER GIVEN that the following technology may be utilized during this deposition: (1) Exhibit Capture (picture-in-picture) technology in which any exhibit reviewed by the deponent during the deposition can be captured visually; and (2) Exhibit Share or a similar paperless virtual display platform, which permits a paperless exhibit display process. Defendant, the deponent, and counsel are advised that in lieu of a paper set of exhibits, exhibits may be provided and displayed digitally to the deposition officer, deponent, and counsel. The exhibits will be compiled by the deposition officer for the purposes of exhibit stamping, and ultimate production of the final certified transcript.

Plaintiffs reserve the right to amend this notice, including to amend the location and format of the deposition.

1 Dated: February 19, 2021

2 DAVID R. EBERHART
3 JAMES K. ROTHSTEIN
4 DANIEL H. LEIGH
5 O'MELVENY & MYERS LLP

6 By: /s/ David R. Eberhart
David R. Eberhart

7 Attorneys for Plaintiffs
8 ELASTICSEARCH, INC. and
9 ELASTICSEARCH B.V.

PROOF OF SERVICE

I, Daniel H. Leigh, declare: I am over the age of eighteen years and not a party to the within action or proceedings; my business address is: Two Embarcadero Center, 28th Floor, San Francisco, California 94111. On February 19, 2021, I caused to be served the within:

- **PLAINTIFFS ELASTICSEARCH, INC. AND ELASTICSEARCH B.V.'S NOTICE OF DEPOSITION OF HENDRIK SALY; AND**
- **PROOF OF SERVICE**

on counsel for Defendant floragunn GmbH at the following email address: floragunn-service@kblfirm.com.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration, made in conformity with 28 U.S.C. § 1746, was executed at San Francisco, California on February 19, 2021.

/s/ Daniel H. Leigh

Daniel H. Leigh